

REMARKS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-15 are currently pending. Claims 1 and 4-8 have been amended; and Claims 9-15 have been added by the present amendment. No new matter has been added.¹

In the outstanding Office Action, Claims 1-8 were rejected under 35 U.S.C. §102(b) as anticipated by U.S. Publication 2002/041692 A1 to Seto et al. (hereafter the '692 publication).

The specification has been amended to correct a typographical error in Equation 1. The change is supported by the specification which describes a "similarity distance,"² and "the smaller the value is, the more similar"³ the parameters are. One skilled in the art would recognize that distance between two points (x_1, y_1) and (x_2, y_2) is calculated as $\sqrt{(x_1 - x_2)^2 + (y_1 - y_2)^2}$, rather than $\sqrt{(x_1 + x_2)^2 + (y_1 + y_2)^2}$. Further, as stated in the specification, more similar parameters produce a smaller similarity value, which is consistent with subtracting the present latitude from the previously measured latitude, and subtracting the present longitude from the previously measured longitude. Therefore the change of "+" to "-" in Equation 1 is properly supported.

Applicants respectfully traverse the rejection of Claims 1-8 under 35 U.S.C. §102(b).

Briefly summarizing, Claim 1 is directed to a reproducing apparatus including, *inter alia*, a contents data recording medium in which a plurality of contents data are recorded, and

¹ Amended Claims 1, 3, 4, 6, and 7 are amended for purposes of clarity and to address matters of form, and are supported by the claims as originally filed. Amended Claims 1 and 6 recite a similarity value threshold, which is discussed in paragraphs [0059-0060] of the pre-grant publication of the present application. Amended Claims 5 and 8 are supported at least by the original claims, and also by paragraphs [0028, 0030, and 0077] of the pre-grant publication of the present application. New Claims 9 and 15 are supported at least by Equation 1 on page 14 of the specification. Claims 10-14 are supported by Claims 1-5, respectively, and are drafted to avoid interpretation under 35 U.S.C. §112, sixth paragraph.

² Pre-grant publication of present application, paragraph [0058].

³ Ibid.

an environmental variable acquisition means for acquiring environmental variables. Further, the reproducing apparatus includes a reproduction history storage means for preserving identification information of reproduced contents data combined with the environmental variables at a time of reproduction. The reproducing apparatus also includes a ***reproduction control means for calculating a similarity value between environmental variables at present and environmental variables stored*** in the reproduction history storage means for each of the plurality of contents data, and for selecting and reproducing contents data whose similarity value is judged to be closest to a predetermined threshold.

The outstanding Office Action asserts that ‘692 publication describes a reproduction control means as recited in Claim 1. Specifically, the outstanding Office Action asserts that Figure 3 and paragraph [0039] of the ‘692 publication describe such a reproduction control means.

Applicants respectfully disagree, and submit that paragraph [0039] of the ‘692 publication merely describes “a table for illustrating the relationship between music information and vehicle’s information.”⁴ However, this table does not calculate anything, and therefore is not a means for ***calculating a similarity value between environmental variables at present and environmental variables stored in a reproduction history means***.

Further, Applicants respectfully submit that the ‘692 publication describes a different approach to selecting songs, that does not calculate a ***similarity value between environmental variables at present and environmental variables stored in a reproduction history means*** as recited in Claim 1. Specifically, paragraphs [0044-0048] of the ‘692 publication describe a “conversion process implemented by the favorite degree conversion unit 31.” Songs are ranked from “A” to “D”, with A being the most preferable, and D being the least. As shown

⁴ ‘692 publication, paragraph [0039].

in Figure 7, a song's ranking is assigned by comparing parameters such as heart rate of a driver or vehicle acceleration to **preset constants** C1-C4.

Thus, the '692 publication describes an approach for ranking songs by comparing various measured parameters to **preset constants**. The present constants are not environmental variables stored in a reproduction history means. Therefore, the comparison of measured parameters to constants described by the '692 publication is not *calculating a similarity value between environmental variables at present and environmental variables stored in a reproduction history means*. Accordingly, Applicants respectfully submit that the '692 publication fails to teach or suggest a reproducing apparatus as recited in Claim 1.

Claim 6, while directed to an alternate embodiment, recites a feature of calculating a similarity value between environmental variables at present and stored environmental variables. As discussed above, the '692 publication fails to teach or suggest this feature.

Accordingly, Applicants respectfully submit that Claims 1 and 6 (and all associated dependent claims) patentably define over the '692 publication.

Further, Applicants submit that the '692 publication fails to teach or suggest the features recited in Claims 5 and 8.

Claim 5 recites, *inter alia*, **communication control means for transmitting environmental variables at present to a remote service center** when it is judged based on the similarity value that no environmental variables of the past similar to environmental variables at present exist.

The outstanding Office Action asserts that music editing unit 41 in Figure 1 is a service center. However, music editing section 41 merely "selects the favorite music pieces from [a] music selection table."⁵ As shown in Figure 1 of the '692 publication, there is no apparent transmission of environmental variables to the music editing section 41. Therefore,

⁵ '692 publication, paragraph [0052].

the '692 publication fails to teach or suggest *communication control means for transmitting environmental variables at present to a remote service center*, as recited in Claim 5.

Claim 8 recites similar limitations, and therefore defines over the '692 publication for the same reasons.

Accordingly, Applicants respectfully request that the rejections of Claims 1-8 under 35 U.S.C. §102(b) be withdrawn.

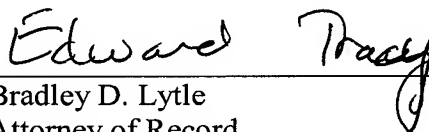
New Claims 9-15 have been added to vary the scope of patent protection, and to further define over the applied art. Claim 9 depends from Claim 1, and at least by virtue of dependence from Claim 1 is believed to be allowable.

Claims 10-15 recite similar features as those recited in Claims 1-5 and 9, respectively, without invoking interpretation under 35 U.S.C. §112, sixth paragraph. It is respectfully submitted that the '692 publication does not teach or suggest *a controller configured to calculate a similarity value between environmental data at present and environmental data stored in the storage unit for each of the plurality of contents data*, as recited in Claim 10. Therefore, Claims 10-15 are believed to be allowable over the '692 publication.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)

Edward W. Tracy, Jr.
Registration No. 47,998

I:\ATTY\GSD\27s\277006us\277006us_AM_DUE9.3.08.DOC